

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, ex. rel.  
WILLIAM L. FRY,

Relator,

v.

FIRST INVESTMENT COMPANY, et al.,

Defendants.

CIVIL ACTION

No. 04-1316

(Judge McLaughlin)

**DEFENDANT EVERHOME'S MOTION TO DISMISS**

Defendant EverHome Mortgage Company, formerly Alliance Mortgage Company ("EverHome") hereby moves to dismiss Relator William L. Fry's Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6), and 9(b).

In support of this Motion, EverHome submits, in conjunction with Defendant First Investment Company, the accompanying Defendants' Memorandum in Support of Their Motions to Dismiss. As explained in that memorandum, this Court is without jurisdiction to hear these claims, the Complaint fails to state a claim upon which relief can be granted, the Complaint fails to comply with the pleading requirements of Rule 9(b), and many of the claims are time-barred.

WHEREFORE, for the reasons stated above and in the Memorandum supporting this Motion, EverHome respectfully requests that the Court dismiss the Complaint in its entirety.

Respectfully submitted,

EVERHOME MORTGAGE COMPANY,

By: \_\_\_\_\_  
Jennifer E. Watson, Esq.  
WILBRAHAM LAWLER & BUBA  
Two Gateway Center, 17N  
Pittsburgh, PA 15222  
TEL: (412) 255-0662  
FAX: (412) 255-0505

Attorney for Defendant EverHome  
Mortgage Company

OF COUNSEL:

Roberto M. Bracerias, Esq.  
Goodwin | Procter LLP  
Exchange Place  
Boston, MA 02109  
Tel: 617/570-1000

Sarah S. Keast, Esq.  
Goodwin | Procter LLP  
901 New York Avenue, N.W.  
Washington, D.C. 20001  
Tel: 202/346-4000

**CERTIFICATE OF SERVICE**

I hereby certify that on the 26th day of October, 2006, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Malcolm L. Pollard, Esq.  
485 Westlake Road #119  
Erie, Pennsylvania 16505  
Tel: 814/838-8258  
Fax: 814/838-8452

Attorney for Relator

Mary Beth Buchanan, United States Attorney, Western District of  
Pennsylvania  
Robert L. Eberhardt, Assistant United States Attorney  
U.S. Post Office and Courthouse  
700 Grant Street, Suite 4000  
Pittsburgh, PA 15219  
(412) 894-7353  
(412) 644-6995 (fax)

David Leviss, Trial Attorney  
U.S. Department of Justice  
Commercial Litigation Branch  
P.O. Box 261  
Ben Franklin Station  
Washington, D.C. 20044  
(202) 353-2680  
(202) 307-3852 (fax)

Attorneys for the United States of America

s/ Jennifer E. Watson